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Attorneys for Plaintiff

LUKE SMITH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LUKE SMITH,

Plaintiff,

vs.

CITY AND COUNTY OF SAN FRANCISCO
POLICE and SHERIFF'S DEPARTMENTS,
municipal corporations; HEATHER FONG in
her capacity as chief of police for CITY AND
COUNTY OF SAN FRANCISCO, MICHAEL
HENNESSEY, in his capacity as sheriff for
CITY AND COUNTY OF SAN
FRANCISCO, 1-100, inclusive; individually
and in their capacities as POLICE OFFICERS
and SHERIFF'S DEPUTIES for the CITY
AND COUNTY OF SAN FRANCISCO.

Defendants.

Case No. CV-10-3544 EDL

**[PROPOSED] STIPULATED ORDER
AUTHORIZING DISCOVERY OF
CONFIDENTIAL CRIMINAL HISTORY
INFORMATION IN THE POSSESSION OF
DEFENDANT CITY AND COUNTY OF SAN
FRANCISCO**

Judge: Judge Laporte

Trial Date: None Set

STIPULATION

Pursuant to Federal Rule of Civil Procedure 26(c) the parties have met and conferred and stipulate as follows:

1. Good cause exists for the Court to authorize the parties to this action to receive certain “state summary criminal history information,” as defined in California Penal Code section 11105(a), in the possession of the City and County of San Francisco. Namely:

2. Plaintiff Luke Smith contends, *inter alia*, that the Defendant City and County of San Francisco erroneously allowed an arrestee to assume the identity of Mr. Smith, which ultimately led to the issuance of a bench warrant for Mr. Smith when the impostor did not appear for his prosecution under Mr. Smith’s name in San Francisco Superior Court. Plaintiff Luke Smith further contends that the City and County of San Francisco erred when Mr. Smith was later arrested pursuant to the same bench warrant and that the City and County of San Francisco failed to timely determine that Mr. Smith was not the correct person wanted pursuant to the bench warrant.

3. In connection with the arrest and booking process in San Francisco, various documents are generated that contain information such as unique identifying information based on fingerprints and criminal histories. This information is used in connection with making identification and custody decisions and it is therefore relevant to Mr. Smith’s claims in this action. However, at least some of the information contained in these documents is or could be considered “state summary criminal history information,” is subject to protection under California law. Section 11142 of the California Penal Code makes it a misdemeanor to disclose state summary criminal history information to a person who is not authorized to receive such information. However, under section 11140 of the California Penal Code, a court may authorize persons to receive such information. Because good cause exists for discovery of the state summary criminal history information that was generated in connection with the subject arrests and bookings in this action, the parties respectfully request that the Court authorize San Francisco to disclose that information in discovery.

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4. State summary criminal history information produced in this action shall be treated as confidential information subject to the terms of the Stipulated Protective Order in this action.

IT IS SO STIPULATED.

Dated: January 14, 2010

DENNIS J. HERRERA
City Attorney
JOANNE HOEPER
Chief Trial Deputy
PETER J. KEITH
MARK D. LIPTON
Deputy City Attorneys

By: /s/ Peter J. Keith
PETER J. KEITH

Attorneys for
CITY AND COUNTY OF SAN FRANCISCO,
HEATHER FONG, AND MICHAEL HENNESSEY

Dated: January 14, 2011

LAW OFFICES OF CHE L. HASHIM

By: /s/* Che L. Hashim
CHE L. HASHIM

Attorneys for
LUKE SMITH

**Pursuant to GO 45, the electronic signatory has obtained approval from this signatory.*

ORDER

BASED ON THE ABOVE ENTERED STIPULATION, the City and County of San Francisco is authorized to release state summary criminal history information pursuant to the terms of the foregoing stipulation.

IT IS SO ORDERED.

Dated:

THE HONORABLE
UNITED STATES JUDGE
JUDGE ELIZABETH D. LAPORTE

